IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 22ND AUGUST 2007 / 31ST SRAVANA 1929

Crl.MC.No. 2686 of 2007()

SC.39/2005 of ADDL. SESSIONS COURT (ADHOC), THALASSERY

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PETITIONER: ACCUSED

KIZHAKKEPUTHALATHU SUBAIR, S/O.ALI,
KUNIKKATTIL HOUSE, P.O.PARAL, KODIYERS VILLAGE,
KANNUR DISTRICT.

BY ADV. SRI.H.BADARUDDIN
SRI.C.A.JOSEPH

RESPONDENTS: COMPLAINANT

1. SUB INSPECTOR OF POLICE, S.H.O.,
IRITTY, KANNUR DISTRICT.

2. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR ADV.SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 22/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C. No.2686 Of 2007

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Dated this the 22nd day of August, 2007

ORDER

Petitioner faces indictment in a prosecution under the provisions of the Kerala Abkari Act. Cognizance has been taken and the case is registered. The petitioner did not appear before the learned Sessions Judge. The learned Sessions Judge has issued coercive processes against the petitioner.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The absence of the petitioner earlier was on account of reasons beyond his control. The petitioner is willing to surrender before the learned Sessions Judge and cooperate for the early disposal of the case, but he apprehends that his application for bail may not be considered by the learned Sessions Judge on merits, in accordance with law and expeditiously. He further prays that appropriate directions under Section 482 Cr.P.C may be issued in favour of the petitioner.

3. It is for the petitioner to appear before the learned Sessions Judge and explain to the learned Sessions Judge the circumstances under which he could not earlier appear before the learned Sessions Judge . I have no reason to assume that the learned

Sessions Judge would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This application is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Sessions Judge and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Sessions Judge must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself, unless there are compelling reasons.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE